

**APSAALOOKE TRIBAL SECURED TRANSACTIONS ACT  
STATE-TRIBAL RELATIONS COMMITTEE MEETING  
Crow Agency, Montana  
January 13, 2014**

**UNIFORM COMMERCIAL CODE**

1. UCC laws adopted by the States govern a broad area of commercial transactions – basic infrastructure of uniform laws for doing business

e.g., sales, leases, negotiable instruments, bank deposits, letters of credit, securities

2. Secured Transactions is commonly known as “Article 9” of the UCC

-security interests in personal property that a person has used for collateral for a loan

-does not include real property used for collateral – by mortgage, etc., or Leasing

-Montana counterpart is in Montana Code Annotated Title 30, designated as Chapter 9A in 2001

-Establishes rules as between the debtor and the lender as to repossessing collateral, selling to satisfy the debt, etc.

-As important, establishes a filing system whereby various debtors give notice that they have a security interest and in what collateral – critical for determining which lender has priority security interest in the property (e.g., PMSI)

**MODEL TRIBAL ACT**

-adopted by National Conference of Commissioners on Uniform State Laws in 2005

-Certainty in rules in order to better enable access to credit by individuals and businesses in Indian Country: lack of certainty = more risk = less lending

-Same core principles as the UCC Article 9

-Extensive “Implementation Guide” developed by NCCUSL along with the Federal Reserve Bank of Minneapolis

**State Tribal Relations Committee  
January 13, 2014  
EXHIBIT 8**

-Differences from “standard” UCC Article 9

- (a) extensive “definitions” for Tribes that do not have other parts of the UCC
- (b) no waiver of the Tribe’s sovereign immunity
- (c) repossession requires Tribal Court order or consent of debtor after the default (9-609)
- (d) does not apply to Trust Land (real property) – or to fixtures located on trust land

### **APSAALOOKE SECURED TRANSACTIONS ACT**

1. adopted by the Crow Tribe in 2006 based on the NCCUSL Model Tribal Code; first in nation

-minor amendments in 2010 for casino financing (pledged revenues)

2. 2007 entered into a Compact with Montana Secretary of State for a Joint Sovereign Filing System; renewed and updated in 2012

-also Chippewa Cree Tribe (Rocky Boy’s) in 2010 – essentially identical agreements

-Importance of maintaining the filing system for determining priorities between lenders  
– a “FINANCING STATEMENT”

-Montana Secretary of State agrees to serve as a Central Filing Office

- (a) same filing procedures as under Montana law
- (b) same filing fees
- (c) similar UCC Financing Statement
- (d) records are property of the Tribe
- (e) five-year term; can be terminated on 90 days’ notice
- (f) does not affect Tribal jurisdiction; no waiver of Tribal sovereign immunity

## **EXPERIENCE**

-Fairly limited experience thus far by Office of Legal Counsel – Tribal loans from banks, Tribal loans to Tribal-member businesses

-Essential part of the Tribal commercial law infrastructure – along with the Apsaalooke LLC Act, Corporations Code (pending), Finance Protection Act for Trust land mortgages

-Will play an increasingly important role as Tribal members form more businesses, and for Tribal economic development projects